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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/761,645	01/20/2004	Charles Joseph Kowalski	67895-40080	3336

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McCarter & English, LLP
Four Gateway Center
100 Mulberry Street
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EXAMINER

EWALD, MARIA VERONICA

ART UNIT	PAPER NUMBER
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1722

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	12/28/2006	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/761,645

Applicant(s)

KOWALSKI ET AL.

Examiner

Maria Veronica D. Ewald

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 October 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 11-26 is/are pending in the application.
- 4a) Of the above claim(s) 11 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 12-14 and 20-26 is/are rejected.
- 7) ☒ Claim(s) 15-19 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 January 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
- Paper No(s)/Mail Date 10/16/06.

- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

DETAILED ACTION

Drawings

13. The drawings are objected to because there are handwritten figure labels in figures 3 – 5, respectively. Such labels should be corrected accordingly. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Allowable Subject Matter

14. Claims 15 – 19 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The following is a statement of reasons for the indication of allowable subject matter: Prior art fails to show, either alone or in combination, a stationary shaft sized and shaped so as to be coaxially received within said rotatable shaft, said stationary shaft being attached to said stationary cap.

Claim Rejections - 35 USC § 102

15. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Yamamoto, et al. (U.S. 4,846,643). Yamamoto, et al. teach a toy cotton candy machine, comprising: a base (item 10 – figure 1) having a rotatable shaft (item 14 – figure 1); a spinner attached to said rotatable shaft such that said spinner is adapted to rotate conjointly with said rotatable shaft (item 30 – figure 1); and a stationary cap having an inner cavity (item 18 – figure 1), said spinner being positioned substantially within said inner cavity of said stationary cap such that said spinner is substantially inaccessible to a user (figure 1; column 3, lines 58 – 65); wherein the machine is further comprised of a

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heat sink positioned within said inner cavity of said stationary cap and above said spinner so as to substantially block access to said spinner (item 48 – figure 1).

Claim 24 is rejected under 35 U.S.C. 102(b) as being anticipated by Yamamoto, et al. (U.S. 4,846,643). Yamamoto, et al. teach a toy cotton candy machine, comprising a base (item 10 – figure 1) having a rotatable shaft (item 14 – figure 1); a stationary cap having an inner cavity (item 18 – figure 1); a heat sink positioned within said inner cavity of said stationary cap (item 48 – figure 1); and a spinner attached to said rotatable shaft such that said spinner is adapted to rotate conjointly with said rotatable shaft (item 30 – figure 1), said spinner being positioned substantially within said inner cavity of said stationary cap and below said heat sink so as to substantially block access to said spinner (item 48 – figure 1).

Claim Rejections - 35 USC § 103

16. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Yamamoto, et al. in view of Tokodoro (U.S. 6,722,869). Yamamoto, et al. teach the previously-described characteristics but do not teach the presence of a magnet and sensor.

In a method to make cotton candy, Tokodoro teaches the use of a cotton candy machine with a base, a rotating shaft and a spinner (figure 1). Tokodoro also teaches that there is a switch mechanism designed to be activated by attaching the tray to the main body (column 10, lines 33 – 37). The switch mechanism is an auxiliary switch disposed below a locking portion. The auxiliary switch comprises a micro switch disposed at a holding portion and a movable plate (column 10, lines 40 – 47). When the tray is attached to the main body, corresponding locking portions on the tray and the main body are brought into engagement and thus, the movable plate is forced to move downward and activate the auxiliary switch (column 10, lines 48 – 53). With this configuration, even if the main power switch is activated by mistake, the machine will not operate, unless the auxiliary switch itself is activated by means of the specific locking attachment between the main body and the tray. This configuration, thus, minimizes the risk of injury to a user, if the machine is inadvertently turned on. This reads on the Applicant's claim that there is a sensor attached to the base, the stationary cap adapted to generate a magnetic field, which can be sensed by the sensor when the magnet is in close proximity to the sensor.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the Applicant's invention to modify the apparatus of Yamamoto, et al. with the auxiliary switch of Tokodoro for the purpose of minimizing injury if the machine is inadvertently turned on.

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Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Yamamoto, et al. in view of Tokodoro and further in view of Coggiola (U.S. 4,470,788). Yamamoto, et al. and Tokodoro teach the characteristics previously described but do not teach that the sensor includes a reed switch.

In a method to extrude food through a screw-extruder, Coggiola teaches the use of a switch in the base, only activated when the cylinder is correctly positioned, thereby to minimize injury or risk thereof, if the machine is inadvertently turned on. The switch is a reed switch (column 3, lines 25 – 26). Properly configured, when the cylinder is positioned on the base, the user presses the push button (item 16 – figure 1), which causes the cylinder to lock and activate the switch. The extruder is then ready to operate. This reads on the Applicant's claim that the sensor includes a reed switch.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the Applicant's invention to modify the machine of Yamamoto, et al. with the sensor of Tokodoro, further configured such that the sensor includes a reed switch for the purpose of safely activating the machine as taught by Coggiola; the reed switch only activated when the base and tray are properly positioned to thereby, minimize injury, if the machine is turned on inadvertently.

Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Yamamoto, et al. in view of Tokodoro. Yamamoto teaches a toy cotton candy machine, comprising a base (item 10 – figure 1) having a rotatable shaft (item 14 – figure 1); a stationary cap including an inner cavity (item 18 – figure 1); and a spinner attached to

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said rotatable shaft (item 30 – figure 1), such that the spinner is adapted to rotate conjointly with said rotatable shaft, said spinner being positioned substantially within said inner cavity of said stationary cap such that said spinner is substantially inaccessible to a user (figure 1).

However, Yamamoto, et al. do not teach a sensor attached to said base and a magnet adapted to generate a magnetic field which can be sensed by said sensor when said magnet is in close proximity to said sensor.

In a method to make cotton candy, Tokodoro teaches the use of a cotton candy machine with a base, a rotating shaft and a spinner (figure 1). Tokodoro also teaches that there is a switch mechanism designed to be activated by attaching the tray to the main body (column 10, lines 33 – 37). The switch mechanism is an auxiliary switch disposed below a locking portion. The auxiliary switch comprises a micro switch disposed at a holding portion and a movable plate (column 10, lines 40 – 47). When the tray is attached to the main body, corresponding locking portions on the tray and the main body are brought into engagement and thus, the movable plate is forced to move downward and activate the auxiliary switch (column 10, lines 48 – 53). With this configuration, even if the main power switch is activated by mistake, the machine will not operate, unless the auxiliary switch itself is activated by means of the specific locking attachment between the main body and the tray. This configuration, thus, minimizes the risk of injury to a user, if the machine is inadvertently turned on. This reads on the Applicant's claim that there is a sensor attached to the base, the stationary

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cap adapted to generate a magnetic field, which can be sensed by the sensor when the magnet is in close proximity to the sensor.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the Applicant's invention to modify the apparatus of Yamamoto, et al. with the auxiliary switch of Tokodoro for the purpose of minimizing injury if the machine is inadvertently turned on.

Claims 21 – 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yamamoto, et al. in view of Tokodoro and further in view of Coggiola.

Yamamoto, et al., and Tokodoro teach the characteristics previously described but do not teach that the sensor includes a reed switch. Yamamoto, et al. do teach, however, the presence of a heat sink positioned within said inner cavity of said stationary cap (item 48 – figure 1). The heat sink dissipates heat through the apparatus. In addition, Tokodoro teaches the presence of a second sensor mounted to the base (column 6, lines 35 – 55; column 10, lines 30 – 47), which allows the machine to activate only when the sensor and magnet are within close proximity of each other, thereby, minimizing injury if the machine is inadvertently turned on.

In a method to extrude food through a screw-extruder, Coggiola teaches the use of a switch in the base, only activated when the cylinder is correctly positioned, thereby to minimize injury or risk thereof, if the machine is inadvertently turned on. The switch is a reed switch (column 3, lines 25 – 26). Properly configured, when the cylinder is positioned on the base, the user presses the push button (item 16 – figure 1), which

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cause the cylinder to lock and activate the switch. The extruder is then ready to operate. This reads on the Applicant's claim that the sensor includes a reed switch.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the Applicant's invention to modify the machine of Yamamoto, et al. with the sensor of Tokodoro, further configured such that the sensor includes a reed switch as taught by Coggiola for the purpose of safely activating the machine, only when the base and tray are properly positioned and thereby, minimize injury, if the machine is turned on inadvertently.

Claims 25 – 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yamamoto, et al. in view of Tokodoro. Yamamoto, et al. teach the characteristics previously described and also teach that the base includes a heating assembly sized and shaped so as to provide heat to said spinner, said heating assembly including a thermostat sized and shaped so as to prevent heat from being generated by said heating assembly when a predetermined temperature is reached (column 5, lines 40 – 55; column 6, lines 20 – 40), but do not teach a sensor attached to said base and a magnet adapted to generate a magnetic field which can be sensed by said sensor when said magnet is in close proximity to said sensor.

In a method to make cotton candy, Tokodoro teaches the use of a cotton candy machine with a base, a rotating shaft and a spinner (figure 1). Tokodoro also teaches that there is a switch mechanism designed to be activated by attaching the tray to the main body (column 10, lines 33 – 37). The switch mechanism is an auxiliary switch

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disposed below a locking portion. The auxiliary switch comprises a micro switch disposed at a holding portion and a movable plate (column 10, lines 40 – 47). When the tray is attached to the main body, corresponding locking portions on the tray and the main body are brought into engagement and thus, the movable plate is forced to move downward and activate the auxiliary switch (column 10, lines 48 – 53). With this configuration, even if the main power switch is activated by mistake, the machine will not operate, unless the auxiliary switch itself is activated by means of the specific locking attachment between the main body and the tray. This configuration, thus, minimizes the risk of injury to a user, if the machine is inadvertently turned on. This reads on the Applicant's claim that there is a sensor attached to the base, the stationary cap adapted to generate a magnetic field, which can be sensed by the sensor when the magnet is in close proximity to the sensor.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the Applicant's invention to modify the apparatus of Yamamoto, et al. with the auxiliary switch of Tokodoro for the purpose of minimizing injury if the machine is inadvertently turned on.

Response to Arguments

17. Applicant's arguments, see page 9, filed October 16, 2006, with respect to the rejection(s) of claim(s) 1 – 10 under 103(a) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Yamamoto, et al.

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Yamamoto, et al. teach a cotton candy machine with a stationary cover or cap (item 18 – figure 1). The cap does not spin or rotate with the shaft and spinner and is securely bolted to the base via screws (figure 1). In addition, the cap has an inner cavity in which the spinner (item 30 – figure 1) *is positioned substantially within said inner cavity*. Yamamoto also teaches the presence of a heat source (column 5, lines 25- 40) and a heat sink (item 48 – figure 1). The heat sink is the cover of the spinner, which made of metal, *acts to dissipate, conduct or distribute heat* within the spinner assembly.

Furthermore, the reference of Tokodoro is cited in the dependent claims as well as the newly-cited reference of Coggiola.

Conclusion

18. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Maria Veronica D. Ewald whose telephone number is 571-272-8519. The examiner can normally be reached on M-F, 8 - 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dr. Yogendra Gupta can be reached on 571-272-1316. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MVE


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